

**UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

John Ley
Clerk of Court

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October 07, 2014

MEMORANDUM TO COUNSEL OR PARTIES

Appeal Number: 12-12928-U
Case Style: USA v. Quartavious Davis
District Court Docket No: 1:10-cr-20896-JAL-2

This Court requires all counsel to file documents electronically using the Electronic Case Files ("ECF") system, unless exempted for good cause.

For the purposes of the upcoming en banc rehearing in the above referenced case, the court desires for counsel to focus on their briefs on the following issues:

- 1) Whether the Stored Communications Act, 18 U.S.C. § 2703(c)(1)(B), (d), is unconstitutional under the Fourth Amendment insofar as it authorizes the government to acquire records showing historical cell site location information from a telephone service provider?
- 2) On the facts of this case, whether the government acquisition, pursuant to an order authorized by the Stored Communications Act, 18 U.S.C. § 2703(c)(1)(B), (d), of cellular telephone records showing historical cell site location information from a telephone service provider constitutes an unreasonable search or seizure in violation of Davis's constitutional rights under the Fourth Amendment?

APPELLANT'S EN BANC BRIEF SHALL BE SERVED AND FILED ON OR BEFORE MONDAY, NOVEMBER 17, 2014 by 5:00 p.m. APPELLEE'S EN BANC BRIEF SHALL BE SERVED AND FILED ON OR BEFORE WEDNESDAY, DECEMBER 17, 2014 by 5:00 p.m. Any en banc reply brief shall be filed on or before Wednesday, December 31, 2014 by 5:00 p.m. NO EXTENSIONS WILL BE GRANTED. Parties must format their briefs according to Federal Rules of Appellate Procedure 28 and 32. The cover of each brief shall be the color required by Rule 32 and shall contain the title "En Banc Brief". Each brief must adhere to the page and type-volume limitations delineated in Rule 32(a)(7). Original and 19 copies of the en banc briefs should be filed. The parties are expected to insure that all other parties receive a copy of their briefs before the close of business on the day of filing (facsimile, e-mail, etc.). NO TIME FOR MAILING SHALL BE ALLOWED. The filing of an en banc amicus brief is governed by 11th Cir. R. 35-8.

All counsel are requested to file 16 copies of their original opening panel briefs, appendix (record excerpts) and supplemental authorities prior to 5:00 p.m., Monday, November 17, 2014.

Oral argument will be conducted on Tuesday, February 24, 2015, in Atlanta, Georgia. Each party will be allotted 30 minutes per side for oral argument. Counsel will receive subsequent correspondence regarding the specific time of oral argument.

Sincerely,

JOHN LEY, Clerk of Court

Reply to: Jenifer L. Tubbs / Calendar Clerk
Phone #: 404-335-6131 or 6166

BR-1 Criminal appeal briefing ntc issued